

REMARKS

This is a full and timely response to the outstanding nonfinal Office Action mailed March 26, 2003. Reconsideration and allowance of the application and presently pending claims, as amended, are respectfully requested.

1. Present Status of Patent Application

Upon entry of the amendments in this response, claims 1-19, 21, 23-25, 27, 31-38, 41, and 43-48 remain pending in the present application. More specifically, claims 21, 32, 33, and 38 are directly amended; and claims 20, 22, 26, 28-30, 39, 40, and 42 are canceled without prejudice, waiver, or disclaimer. It is believed that the foregoing amendments and additions add no new matter to the present application.

2. Response to Rejection of Claims 21, 23-24, 27, and 48 under 35 U.S.C. § 103(a)

In the Office Action, claims 21, 23-24, 27, and 48 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Tracy et al. (U.S. Patent No. 6,150,955), hereinafter *Tracy*. It is well-established at law that, for a proper rejection of a claim under 35 U.S.C. § 103 as being obvious based upon the subject matter sought to be patented, the prior art reference must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. See, e.g., *In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981). For the reasons set forth herein, in the present situation, the cited reference does not disclose, suggest, or teach all the claimed features.

a. Claim 21

As provided in independent claim 21, Applicants claim:

21. A method for remotely monitoring or controlling activities within multiple facilities geographically dispersed within at least one wireless network adapted to transmit GSM short messages to allow the facilities to communicate with other terminals without making a wireless telephone call, the method comprising:

(a) providing the selected facility with a gateway comprising a processor, a transceiver and a SIM card adapted to transmit short messaging service messages;

- (b) periodically causing the gateway to formulate a short message reporting on activities within the selected facility at which the gateway is located;
- (c) transmitting the message over the GSM network via a Short Messaging Center coupled to a Mobile Switching Center within the GSM network;
- (d) receiving the message at a terminal selected from a group of devices consisting of a mobile station, a work station and a central processor; and
- (e) *controlling devices located at a selected facility by formulating a control message and forwarding it via the GSM network to the selected facility, wherein the gateway at the facility processes the control message in order to control one or more devices coupled to the gateway.*

(Emphasis Added).

Applicants respectfully submit that the prior art of record is legally inadequate to render claim 21 obvious, because the *Tracy* reference, either individually or in combination does not teach or reasonably suggest the foregoing features. Therefore, Applicants respectfully request that the rejection to pending independent claim 21 be withdrawn.

In this regard, *Tracy* teaches an “apparatus for collecting and transmitting utility usage and other information.” Col. 4, lines 32-34. However, there is no suggestion for “controlling devices located at a selected facility by formulating a control message and forwarding it via the GSM network to the selected facility, wherein the gateway at the facility processes the control message in order to control one or more devices coupled to the gateway,” as described by pending claim 21. This is a significant drawback for users who desire to remotely control devices at a facility. Therefore, the present invention represents a patentable improvement over the system taught by *Tracy*.

It is, however, asserted in the Office Action that it would be obvious to modify *Tracy* to include the aforementioned features, although *Tracy* provides no teaching or suggestion to control devices in a facility via control messages to a gateway or a data collection device. Further, the Examiner has not provided a reference that discloses the feature of controlling devices in a facility via a gateway or data collection device. Thus, the suggested modification of *Tracy* is improper.

b. Claims 23-24 and 27

Because independent claim 21 is allowable over the prior art of record, dependent claims 23-24 and 27 (which depend from independent claim 21) are allowable as a matter of law for at least the reason that dependent claims 23-24 and 27 contain all the steps and features of independent claim 21. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

3. Response to Rejection of Claims 25, 31-32, and 43-47 under 35 U.S.C. § 103(a)

In the Office Action, claims 25, 31-32, and 43-47 stand rejected under 35 U.S.C. § 103(a) as allegedly being upatentable over *Tracy* in view of *Jenney, et al.* (U.S. Patent No. 5,897,607), hereinafter *Jenney*, and *Serbetciouglu, et al.* (U.S. Patent No. 5,719,918), hereinafter *Serbetciouglu*. It is well-established at law that, for a proper rejection of a claim under 35 U.S.C. § 103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. *See, e.g., In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981). For the reasons set forth herein, in the present situation, the cited references do not disclose all the claimed features.

a. Claims 25 and 31

Because claim 24 is allowable over the prior art of record, dependent claims 25 and 31 (which depend from claim 24) are allowable as a matter of law for at least the reason that claims 25 and 31 contain all the steps and features of claim 24. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

b. Claim 32

Because claim 27 is allowable over the prior art of record, dependent claim 32 (which depends from claim 27) is allowable as a matter of law for at least the reason that claim 32 contains all the steps and features of claim 27. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

c. Claims 43-47

Because independent claim 38 is allowable over the prior art of record (as explained below), dependent claims 43-47 (which depend from independent claim 38) are allowable as a matter of law for at least the reason that dependent claims 43-47 contain all the steps and features of independent claim 38. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

4. Response to Rejection of Claims 33-36, 38, 41-42, and 48 under 35 U.S.C. § 102(e)

In the Office Action, claims 33-36, 38, 41-42, and 48 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Tracy*. For a proper rejection of a claim under 35 U.S.C. § 102, the cited reference must disclose all elements/features/steps of the claim. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

a. Claim 33

As provided in independent claim 33, Applicants claim:

33. A system for transmitting data to and from multiple gateways deployed in homes or businesses and capable of collecting data concerning usage or operation of various devices located in the homes or businesses, the system comprising:

a) ***multiple gateways, each adapted to formulate or accept a wireless packet data transmission, wherein each gateway is configured to process the wireless packet data transmission to control one or more devices coupled to the gateway;***

b) a base station controller adapted to route data forwarded to the base station controller via wireless transmission to a support node for formatting the message into a format selected from the group consisting of internet protocol, X.25 protocol and a data protocol for transmission over public land or mobile networks; and

c) a terminal for receiving the formatted messages.

(Emphasis Added).

Applicants respectfully submit that the prior art of record is legally inadequate to render claim 33 obvious, because the *Tracy* reference does not disclose, teach, or reasonably suggest the foregoing features. Therefore, Applicants respectfully request that the rejection to pending independent claim 33 be withdrawn.

In this regard, *Tracy* teaches an “apparatus for collecting and transmitting utility usage and other information.” Col. 4, lines 32-34. However, there is no suggestion to “control one or more devices coupled to the gateway,” as described by pending claim 33. This is a significant drawback for users who desire to remotely control devices at a facility. Therefore, the present invention is a fundamental difference and represents a patentable improvement over the system taught by *Tracy*.” Hence, *Tracy* does not anticipate claim 33, and the rejection should be withdrawn.

b. Claims 34-36

Because independent claim 33 is allowable over the prior art of record, dependent claims 34-36 (which depend from independent claim 33) are allowable as a matter of law for at least the reason that dependent claims 34-36 contain all the elements and features of independent claim 33. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

c. Claim 38

As provided in independent claim 38, Applicants claim:

38. A method for using a wireless network to deliver messages from or to each of multiple gateways that are deployed in geographically-dispersed facilities comprising:

- a) *formulating a message for wireless transmission according to a GPRS format;*
- b) transmitting the message to a network element for identifying that message; and
- c) transferring the message from the network element to a central processor for collating the transferred messages with other messages or data related to a selected gateway.

(Emphasis Added).

Applicants respectfully submit that the prior art of record is legally inadequate to render claim 38 obvious, because the *Tracy* reference does not disclose, teach, or reasonably suggest the foregoing features. Therefore, Applicants respectfully request that the rejection to pending independent claim 38 be withdrawn.

In this regard, *Tracy* teaches an “apparatus for collecting and transmitting utility usage and other information” that “employ the use of a digital control channel to transfer information.” Col. 4, lines 32-34; col. 5, lines 27-38. However, there is no suggestion for “formulating a message for wireless transmission according to a GPRS format,” as described by pending claim 38. This is a significant drawback for users who desire to receive communications continuously and immediately from a selected gateway at a facility as the need arises. Therefore, the present invention is a fundamental difference and represents a patentable improvement over the system taught by *Tracy*.” Hence, *Tracy* does not anticipate claim 38, and the rejection should be withdrawn.

d. Claims 41 and 48

Because independent claim 38 is allowable over the prior art of record, dependent claims 41 and 48 (which depend from independent claim 38) are allowable as a matter of law for at least the reason that dependent claims 41 and 48 contain all the steps and features of independent claim 38. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

5. Response to Rejection of Claim 37 under 35 U.S.C. § 103(a)

In the Office Action, claim 37 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Tracy* in view of *Jenney*. It is well-established at law that, for a proper rejection of a claim under 35 U.S.C. § 103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. *See, e.g., In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981). For the reasons set forth herein, in the present situation, the cited references do not disclose all the claimed features.

Because independent claim 33 is allowable over the prior art of record, dependent claim 37 (which depends from independent claim 33) is allowable as a matter of law for at least the reason that dependent claim 37 contains all the elements and features of independent claim 33. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-19, 21, 23-25, 27, 31-38, 41, and 43-48 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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